



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2022-0223; FRL-10924-01-OCSP]

### Cancellation Order for Certain Chlorpyrifos Registrations and Uses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) hereby announces its final cancellation order for the cancellations and amendments voluntarily requested by the registrants and accepted by the Agency, of the products in Table 1 and Table 2 of Unit I, pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). This final cancellation order follows a December 13, 2022, *Federal Register* Notice of Receipt of Requests from the registrants listed in Table 3 of Unit I, to voluntarily cancel or amend these product registrations. In the December 13, 2022 notice, EPA indicated that it would issue a final order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received three comments on the notice regarding registrations containing the ingredient chlorpyrifos, which are summarized in Unit III.B. EPA's responses to these comments and its determination that these comments do not merit further review of these cancellation and amendment requests are included in Unit III.C. None of the registrants withdrew their request for these voluntary cancellations or amendments. Accordingly, EPA hereby grants the requested cancellations and amendments shown in this cancellation order. Any distribution, sale, or use of existing stocks of these products subject to this cancellation order is permitted only in accordance with the terms of this order.

**DATES:** The cancellations and amendments are effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Patricia Biggio, Pesticide Re-Evaluation

Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0700; email address: *OPPChlorpyrifosInquiries@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this action apply to me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

#### *B. How can I get copies of this document and other related information?*

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2022-0223, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

### **II. What action is the Agency taking?**

This document announces the cancellations and amendments through termination of certain uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 and Table 2 of

this Unit.

**Table 1 – Product Cancellations.**

Registration Number	Company No.	Product Name	Active Ingredients
1381-243	1381	Tundra Supreme	Chlorpyrifos Bifenthrin
62719-34	62719	Lorsban 15G	Chlorpyrifos
62719-79	62719	LOCK-ON	Chlorpyrifos
62719-220	62719	Lorsban-4E	Chlorpyrifos
62719-221	62719	Lorsban 50W in Water Soluble Packets	Chlorpyrifos
62719-254	62719	Dursban 4E-N	Chlorpyrifos
62719-301	62719	Lorsban 75WG	Chlorpyrifos
62719-353	62719	Dursban F Insecticidal Chemical	Chlorpyrifos
62719-355	62719	Dursban R Insecticidal Chemical	Chlorpyrifos
62719-575	62719	Cobalt	Chlorpyrifos gamma-Cyhalothrin
62719-591	62719	Lorsban advanced	Chlorpyrifos
62719-615	62719	Cobalt advanced	Chlorpyrifos
83222-20	83222	CPF 4E	Chlorpyrifos
83222-34	83222	CPF 15G	Chlorpyrifos

**Table 2 – Chlorpyrifos Registrations with Specific Uses to be Terminated.**

Registration Number	Company No.	Product Name	Uses to be terminated
11678-58	11678	Pyrinex Chlorpyrifos Insecticide	<p><i>Food uses:</i> Agricultural Crops [Terrestrial Food Crop, Greenhouse Food Crop]: Alfalfa; apple; asparagus; banana; beet (sugar, garden/table, including crops grown for seed); blueberry; Brassica (cole) leafy vegetables (bok choy, broccoli, broccoli raab, Brussels sprouts, cabbage, cauliflower, Chinese cabbage, collards, kale, kohlrabi); caneberrries; cherimoya; cherries (sour, sweet); citrus fruits, corn (field corn, sweet corn (including corn grown for seed)); cotton; cranberry; cucumber; date; feijoa; fig; grape; kiwifruit; leek; legume vegetables (succulent or dried), mint; nectarine; onion (dry bulb); peach; peanut; pear; pepper; plum; prune; pumpkin; radish (including crops grown for seed); rutabaga; sapote; seed and pod vegetables; sorghum (milo); strawberry; sugarcane; sunflower; sweet potato; tree nuts, turnip; wheat; seed treatment.</p> <p><i>Commercial Livestock Housing:</i> Cattle ear tags, poultry houses, turkey barns, swine barns, and dairy barns.</p> <p><i>Nonfood uses:</i> Tobacco</p>

66222-19	66222	Chlorpyrifos 4E AG	<p><i>Food uses:</i> Alfalfa, apple tree trunk, asparagus, cherries, citrus fruits (calmondin, chironja, citrus citron, citrus hybrids, grapefruit, kumquat, lemons, limes, mandarin, tangerine, oranges, pummelo, Satsuma mandarin, tangelo, tangor, and other citrus fruit), cranberries, figs, grapes; legume vegetables including adzuki bean, asparagus bean, bean, blackeyed pea, broad bean (dry and succulent), catjang, chickpea, Chinese longbean, cowpea, crowder pea, dwarf pea, edible pod pea, English pea, fava bean, field bean, field pea, garbanzo bean, garden pea, grain lupin, green pea, guar, hyacinth bean, jackbean, kidney bean, lablab bean, lentil, lima bean, moth bean, mung bean, navy bean, pea, pigeon pea, pinto bean, rice bean, runner bean, snap bean, snow pea, southern pea, sugar snap pea, sweet lupin, sword bean, tepary bean, urd bean, wax bean, white lupin, white sweet lupin, yardlong bean; mint (peppermint and spearmint), plums, prunes, nectarines, peaches, almonds, onions, peanuts, pears, sorghum, soybeans, strawberries, sugar beets, sunflowers, sweet potatoes, tree fruits, tree nuts, almonds, filberts, pecans, walnuts; almond, pecan, walnut orchard floors; vegetables, Brassica (cole) leafy vegetable (bok choy), cauliflower, broccoli, Brussels sprouts, cabbage, Chinese cabbage, collards, kale, kohlrabi, turnips, radishes, rutabagas, wheat, cotton; seed treatment.</p> <p><i>Nonfood uses:</i> Tobacco</p>
66222-233	66222	Vulcan	<p><i>Food uses:</i> Alfalfa, apple, citrus fruits: calamondin, chironja, citrus citron, citrus hybrids, grapefruit, kumquat, lemons, limes, mandarin (tangerine), oranges, pummelo, Satsuma mandarin, tangelo, tangor, citrus orchard floors, corn (field and sweet) (including corn grown for seed), cotton, cranberries, figs, grapes; legume vegetables, including adzuki bean, asparagus bean, bean, blackeyed pea, broad bean (dry and succulent), catjang, chickpea, Chinese longbean, cowpea, crowder pea, dwarf pea, edible pod pea, English pea, fava bean, field bean, field pea, garbanzo bean, garden pea, grain lupin, green pea, guar, hyacinth bean, jackbean, kidney bean, lablab bean, lentil, lima bean, moth bean, mung bean, navy bean, pea, pigeon pea, pinto bean, rice bean, runner bean, snap bean, snow pea, southern pea, sugar snap pea, sweet lupin, sword bean, tepary bean, urd bean, wax bean, white lupin, white sweet lupin, yardlong bean; mint (peppermint and spearmint), nectarines, peaches, almonds, onions (dry bulb), peanuts, pears, sorghum, soybeans, strawberries,</p>

			sugar beets, sunflowers, sweet potatoes, tree fruits and nuts: almond, cherry, nectarine, peach, pear, plum, prune, walnut, filberts; almond, pecan, and walnut orchard floors; vegetables: cauliflower, broccoli, broccoli raab, Brussels sprouts, cabbage, Chinese cabbage, collards, kale, kohlrabi, rutabaga, turnips, radish, wheat; seed treatment <i>Nonfood uses:</i> Tobacco
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**Table 3 – Registrants of Cancelled or Amended Products.**

<b>EPA Company Number</b>	<b>Company name and address</b>
11678	ADAMA US 3120 Highwoods Boulevard, Suite 100 Raleigh, NC 27604
66222	ADAMA US 3120 Highwoods Boulevard, Suite 100 Raleigh, NC 27604
62719	Corteva Agriscience, LLC 9330 Zionsville Road Indianapolis, IN 46268
1381	Winfield Solutions, LLC 1080 County Rd., F West, MS5705 P.O. Box 64589 St. Paul, MN 55164
83222	Winfield Solutions, LLC 1080 County Rd., F West, MS5705 P.O. Box 64589 St. Paul, MN 55164

### **III. Public Comments**

#### *A. Brief History*

In August 2021, EPA issued a rule in the *Federal Register* on August 30, 2021 (86 FR 48315) (FRL-5993-04-OCSPP) revoking chlorpyrifos tolerances on the grounds that the chlorpyrifos tolerances were not safe. Pursuant to the procedures set forth in FFDCA section 408(g)(2), objections to, requests for evidentiary hearings on those objections, and/or requests for stays of the Final Rule were filed on or before the close of the objections period on October 29, 2021. EPA issued an Order published in the *Federal Register* on February 28, 2022 (87 FR 11222) (FRL-5993-05-OCSPP) denying all objections to, requests for hearing on those objections, as well as requests for stay of the Final Rule (the Denial Order).

As a result, chlorpyrifos tolerances expired on February 28, 2022 per the Final Rule.

Once the tolerances expired, use of pesticide products containing chlorpyrifos on food or feed crops would result in adulterated food, which cannot be sold in interstate commerce. After EPA alerted registrants of chlorpyrifos products of the lack of tolerances and the options for their products, several registrants submitted requests to voluntarily cancel their chlorpyrifos pesticide products. The notice for this action was published for comment in the *Federal Register* on December 13, 2022 (87 FR 76191) (FRL-10469-01-OCSP). The 30-day public comment period closed on January 12, 2023.

#### *B. Summary of Comments Received*

During the public comment period, EPA received three comments in response to the December 13, 2022 notice. The comments can be found in the docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2022-0223, available at <https://www.regulations.gov> and are briefly summarized here. One comment was submitted by the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation. A second comment was submitted by a private citizen, and a third comment was submitted anonymously and was not substantive.

The comment from the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation opposed the voluntary cancellation of the products in the December 13, 2022 notice of receipt for this action. In particular, these commenters specified concerns that the voluntary cancellation of chlorpyrifos registrations and termination of certain uses is premature while there is ongoing litigation regarding the Final Rule and Denil Order in the United States Court of Appeals for the Eighth Circuit, *Red River Valley Sugarbeet Growers Ass'n et al., v. Regan, et al.*, Nos. 22-1422, 22-1530 (8th Cir.). These commenters also specified concerns that sugarbeet growers will suffer irreparable harm because the loss of chlorpyrifos as a pest management tool will result in substantial increased costs, lost profits, decreased crop yields, and a larger environmental impact from more frequent use of less effective alternatives.

The comment from the private citizen specified concerns about allowing the export of chlorpyrifos outside of the United States as well as purchasing produce and foodstuffs that may have been treated with substances that are prohibited from application to food in the United States, like chlorpyrifos.

### *C. EPA Response to Comments*

Regarding the comments submitted by the American Sugarbeet Growers Association, U.S. Beet Sugar Association, and the Beet Sugar Development Foundation, the cancellations and amendments requested by the registrants listed in Table 3 are appropriate at this time because registrants have a right under section 6(f)(1) of FIFRA to at any time request that EPA cancel or amend their registrations to terminate one or more uses. 7 U.S.C. 136d(f)(1)(A). The registrant may request voluntary cancellation of a pesticide product registration at any time for many reasons, including lack of interest in maintaining the registration or the pesticide no longer being marketed.

EPA cannot compel registrants to maintain a registration indefinitely if they request to voluntarily cancel it. The resolution and timing of the litigation in the Eighth Circuit is unknown, and therefore, retention of the registrations could subject registrants to additional maintenance fees and responsibilities for those registrations, for which the registrants requested cancellation or amendment. See, *e.g.*, 40 CFR part 152, subpart G (registrant responsibilities); 7 U.S.C. 136a-1(i)(1) (maintenance fee obligations); 7 U.S.C. 136e (production reporting requirements); 7 U.S.C. 136f (recordkeeping requirements).

Moreover, retention of these registrations will not make chlorpyrifos products available for use as the commenters desire. EPA issued a rule in the *Federal Register* revoking chlorpyrifos tolerances on August 30, 2021 (86 FR 48315) (FRL-5993-04-OCSP). Chlorpyrifos tolerances expired six months later with the issuance of the Order published in the *Federal Register* on February 28, 2022 (87 FR 11222) (FRL-5993-05-OCSP). The revocation of the tolerances means that application of chlorpyrifos to food crops will result in adulterated food

which cannot be shipped in interstate commerce. While cancellation of the 14 products in Table 1 and amendment of three products in Table 2 does not terminate the last of the chlorpyrifos products registered in the United States, these products (and other remaining chlorpyrifos products) cannot be applied to food crops that will be shipped in interstate commerce.

Regarding the comment from the private citizen, EPA regulates both the import and export of pesticides, but the Agency does not have jurisdiction over the use of pesticides outside of the United States. FIFRA Section 17(a) allows for the distribution of unregistered pesticides produced solely for export, as long as certain conditions are met (7 U.S.C. 136o(a)). Otherwise, all registered pesticides that are exported to other countries must bear the product label approved by EPA. For additional information on importing or exporting chlorpyrifos, please consult EPA's webpage on Importing and Exporting Pesticides at <https://www.epa.gov/pesticides/international-activities-related-pesticides>.

Any pesticide residues in or on food that is imported into the United States must be covered by a tolerance or exemption from the requirement of a tolerance, just the same as any pesticide residues applied to food in the United States. Since there are no current tolerances for residues of chlorpyrifos in or on food, food containing chlorpyrifos residues cannot be imported into the United States, unless the chlorpyrifos residues on that food fall within the Channels of Trade guidance for chlorpyrifos residues that the U.S. Food and Drug Administration (FDA) released last year. This guidance is available at: <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-questions-and-answers-regarding-channels-trade-policy-human-food-commodities>. FDA has stated in its channels of trade policy that it intends to subject the importation of any food bearing a residue (within the former tolerance) of a pesticide chemical for which a tolerance has been revoked, suspended, or modified to the same enforcement approach as for domestic food.

For the reasons above, EPA has determined that these comments do not merit further review or a denial of the cancellations and amendments described in Tables 1 and 2 of Unit I.



#### **IV. The Cancellation Order**

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments of the registrations identified in Table 1 and Table 2 of Unit I. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit I. are cancelled.

The cancellations and amendments addressed in this Order are effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit I. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit V. will be a violation of FIFRA.

#### **V. What is the Agency's Authority for Taking these Actions?**

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more registered uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the *Federal Register*.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. Following the public comment period, the EPA Administrator may approve such a request. The notice for this action was published for comment in the *Federal Register* on December 13, 2022 (87 FR 76191) (FRL-10469-01-OCSP). The 30-day public comment period closed on January 12, 2023.

#### **VI. Provisions for Disposition of Existing Stocks**

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

Because all chlorpyrifos tolerances expired on February 28, 2022, use of chlorpyrifos in or on food will result in adulterated food, which cannot be delivered into interstate commerce.

Such use would be inconsistent with the provisions of FIFRA. EPA is allowing use of existing stocks of chlorpyrifos products identified in Tables 1 and 2 until those existing stocks are exhausted, only for non-food uses identified on the existing labels, as long as such use is consistent with the label. All other use of existing stocks of these chlorpyrifos products are prohibited.

None of the registrants listed in this order have requested any continued sale of existing stocks of the registrations subject to this cancellation order; however, Adama and Corteva have requested that EPA allow for the return of existing stocks that are in the hands of end users and distributors to the respective registrant. Because sale and distribution of chlorpyrifos products for use on food is inconsistent with the purposes of FIFRA, all sale and distribution of the chlorpyrifos products identified in Table 1 and Table 2 of Unit I. is prohibited, except for export consistent with FIFRA section 17 (7 U.S.C. 136o); for proper disposal; or consistent with the terms of the individual return program agreements EPA has approved for Adama and Corteva. The return program agreements were approved by the Agency on April 19, 2023. Adama and Corteva were notified of the approval of their return program agreements on April 20, 2023.

Additional information regarding chlorpyrifos return programs for Adama and Corteva may be found in <https://www.regulations.gov/docket/EPA-HQ-OPP-2021-0523> or by contacting the registrants at: Adama (866) 406-6262; [ordergroup@adama.com](mailto:ordergroup@adama.com) and Corteva (800) 258-3033.

Dated: April 28, 2023.

**Mary Elissa Reaves,**

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*Office of Pesticide Programs.*